



# PUBLIC NOTICE

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DA 04-1052  
April 19, 2004

## ACS WITHDRAWS PETITION FOR RECONSIDERATION

CC DOCKET NO. 96-98

On April 12, 2004, ACS of Alaska, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc. (ACS) filed a letter withdrawing a petition for reconsideration of the Common Carrier Bureau's *August 2001 Rural Exemption Order*.<sup>1</sup> In that Order, the Bureau had denied ACS' petition for rulemaking to amend section 51.405 of the Commission's rules to implement the Eighth Circuit's decision in *Iowa Utilities Board v. FCC*, 219 F.3d 744, 761-62 (8<sup>th</sup> Cir. 2000), *reversed in part on other grounds*, *Verizon Communications v. FCC*, 535 U.S. 467 (2002), regarding the burden of proof in rural exemption cases under section 251(f)(1) of the Communications Act. On September 26, 2001, ACS sought reconsideration of that Order.

In its letter dated April 12, 2004,<sup>2</sup> ASC notes that in December 2003, the Supreme Court of the State of Alaska reversed the Regulatory Commission of Alaska's (RCA's) termination of ACS' rural exemptions, finding that the RCA erred in placing the burden-of-proof on ACS. That court, according to ACS, ruled that the burden-of-proof in such cases is properly placed on the party seeking to terminate the exemption, consistent with the Eighth Circuit's decision. Accordingly, ACS withdraws its petition for reconsideration.

For further information regarding this proceeding, contact Janice M. Myles, Competition Policy Division, Wireline Competition Bureau, (202) 418-1580, or via e-mail [janice.myles@fcc.gov](mailto:janice.myles@fcc.gov).

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<sup>1</sup> *ACS of Alaska, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc. Petition to Amend Section 51.405 of the Commission's Rules to Implement the Eighth Circuit's Decision in Iowa Utilities Board v. FCC Regarding the Burden of Proof in Rural Exemption Cases Under Section 251(f)(1) of the Communications Act*, CC Docket No. 96-98, Order, 16 FCC Rcd 15672 (2001) (*August 2001 Rural Exemption Order*).

<sup>2</sup> Letter to Marlene H. Dortch, Secretary, FCC, from Karen Brinkman, Counsel, Alaska Communications Systems Group, Apr. 12, 2004.